



**STATE BOARD OF EQUALIZATION**

450 N STREET, SACRAMENTO, CALIFORNIA  
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080  
(916) 322-2270 • FAX (916) 324-3984  
www.boe.ca.gov

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Third District, Rolling Hills Estates

JUDY CHU, Ph.D.  
Fourth District, Los Angeles

JOHN CHIANG  
State Controller

RAMON J. HIRSIG  
Executive Director

**STATE BOARD OF EQUALIZATION MEETING  
450 N Street, Room 121, Sacramento  
October 23-24, 2007  
NOTICE AND AGENDA  
Meeting Agenda (as of 7:30 a.m., 10-22-2007)**

[Agenda Changes](#)

[Recorded Audio From Tuesday, October 23, 2007](#)

**Tuesday, October 23, 2007**

**Board Committee Meeting Convenes at 9:30 a.m.\***

**Board Meeting Convenes upon Adjournment of the Board Committee Meeting\*\***

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chairwoman, Ms. Yee, may modify the order of the items on the agenda.

**Board Committee Meeting\***

[Legislative Committee](#) .....[Ms. Chu, Committee Chairwoman](#)

Set forth below is a suggestion for administrative legislation to be sponsored by the Board in the second year of the 2007-2008 Legislative Session. Additional suggestions will be included on the agenda for November 2007.

➤ **2008 Legislative Proposal-Administration**

Amend Section 15609 of the Government Code to require the Members of the Board to meet monthly in the state but not exclusively in Sacramento.

**Board Meeting\*\***

**Oral Hearings**

**A. Homeowner and Renter Property Tax Assistance Hearings**

There are no items for this matter.

**B. Corporate Franchise and Personal Income Tax Hearings**

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

- B1. ~~Edward E. Campbell, Sr., 361525~~  
For Appellant: ~~Perci J. Wayne, Bookkeeper~~  
For Franchise Tax Board: ~~Diane Ewing, Tax Counsel~~
- B2. Allen R. Yarborough and Donna M. Yarborough, 361479  
For Appellant: Lawrence A. Jacobson, Attorney  
Allen R. Yarborough, Appellant  
Donna M. Yarborough, Appellant  
For Franchise Tax Board: Jane Perez, Tax Counsel
- B3. ~~Rechelle M. Dorfler, 306426~~  
For Appellant: ~~Henry Veit, Attorney~~  
~~Rechelle M. Dorfler, Taxpayer~~  
~~Elliott Dorfler, Witness~~  
For Franchise Tax Board: ~~Mark McEvilly, Tax Counsel~~
- B4. Dana B. Fisher (Deceased) and A. Elizabeth Fisher, 346236  
For Appellant: Christie L. Fraser, Attorney  
For Franchise Tax Board: Diane Ewing, Tax Counsel
- B5. Dante S. De Torres, 383704  
For Appellant: Dante S. De Torres, Taxpayer  
For Franchise Tax Board: Dennis Haase, Tax Counsel

**Board Meeting Reconvenes at 1:30 p.m.****C. Sales and Use Tax Appeals Hearings**

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

- C1. George Jeffrey Yurtin, 289814 (KH)  
For Petitioner: George Jeffrey Yurtin, Taxpayer  
For Department: Cary Huxsoll, Tax Counsel
- C2. J.D. Schwartz, Inc., 333352 (KH)  
For Petitioner: William Schwartz, Taxpayer  
Sherri Finley, Bookkeeper  
For Department: Robert Stipe, Tax Counsel

- C3. Hagop Vartanian, 255764 (KH)  
 For Petitioner: Hagop Vartanian, Taxpayer  
 Sona Vartanian, Bookkeeper  
 Kole Johnson, Witness  
 Russell Hebert, Witness  
 Robert Brain, Witness  
 John Sinclair, Witness  
 Michael Scarpino, Witness  
 For Department: Trecia Nienow, Tax Counsel

There are no items for the following matters:

- D. Special Taxes Appeals Hearing
- E. Property Tax Appeals Hearings
- F. Public Hearings

**G. Tax Program Nonappearance Matters – Consent**

(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

**G1 Legal Appeals Matters .....Mr. Levine**

- Hearing Notice Sent – No Response
  - 1. Jennifer L. Martin, 304790, 312733 (UT)
  - 2. Pines Manufacturing, Inc., 307995 (OHA)

**G2 Franchise and Income Tax Matters .....Ms. Kelly**

- Decisions
  - 1. Stephen R. Brook and Cheryl A. Brook, 353615
  - 2. Diana Jane K. Gabriel, 374767
  - 3. Juan J. Pulido and Maria G. Pulido, 377397
- Petitions for Rehearing
  - 4. Tony Jibilian, 346087

**G3 Homeowner and Renter Property Tax**

**Assistance Matters .....Ms. Kelly**

- Decisions
  - 1. Evangeline H. Araneta, 387899
  - 2. Shun Cheung, 380527
  - 3. Ruxanda S. Cosma, 387865
  - 4. Felipa Curiel, 373095
  - 5. Lusik Dagliyan, 394368
  - 6. Delanya Davis, 339309
  - 7. Clifton C. Fredell, 383629
  - 8. Stephanie Christine Najera, 390547
  - 9. Margo Norman, 378584
  - 10. Millard Pete, 357349
  - 11. H. N. Son, 377236
  - 12. Ruby Taylor, 374607
  - 13. Stacy Ugarte, 357396
  - 14. Kham Vongrasamy, 377244

**G4 Sales and Use Taxes Matters ..... Ms. Henry**

- Redeterminations
  1. Price Pfister, Inc., 396520 (EAA)
  2. Anthony Seldon Brusa, 313010 (KH)
  3. Nortel Networks USA, Inc., 244752 (OHB)
  4. Douglas Gabriel, 388639 (GH)
- Relief of Penalty/Interest
  5. Alcatel USA Marketing, Inc., 397015 (OHC)
  6. Journey Education Marketing, Inc., 393557 (OHC)
- Denials of Claim for Refund
  7. Neoplan USA Corporation, 413987 (OH)

**G5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds..... Ms. Henry**

- Credits and Cancellations
  1. Allen Karsy, 402442 (EAA)
  2. Southern California Windows, Inc., 415064 (EH)
  3. Ahmed Kamal Elhawary, 415376 (KHO)
- Refunds
  4. Lagraphico.com, Inc., 334389 (AC)
  5. Tom Malloy Corporation, 401435 (AA)
  6. Fireside Bank, 400448 (CH)
  7. Nortel Networks, Inc., 392163 (OHB)
  8. E I Industries, Inc., 416327 (GH)
  9. The Golden 1 Credit Union, 404503 (KH)
  10. Susan J. Fiscoe, 406646 (KH)
  11. World Fuel Services, Inc., 341991 (OHA)
  12. Neoplan USA Corporation, 413987 (OH)
  13. Chalker Family Trust DTD 4-21-93, 346309 (UT)
  14. Eclipse Advertising, Inc., 351110 (AC)
  15. Rosenheim Automation Systems Corporation, 416343 (GH)
  16. U.S. Foodservice, Inc., 407010 (OHB)
  17. Siemens Communications, Inc., 402807 (OHA)
  18. Regal Cinemas, Inc., 398833 (OHA)
  19. Americredit Financial Service, Inc., 404731(OHC)
  20. Virgin Mobile USA, LLC, 397567 (OHB)
  21. Strohl Systems Group, Inc., 389763 (OHB)

**G6 Special Taxes Matters ..... Mr. King**

- Relief of Penalty
  1. John Hancock Variable Life Insurance Company, 414708 (ET)  
“CF”
  2. John Hancock Life Insurance Company, 414709 (ET) “CF”
  3. American Home Shield of CA, Inc., 415255 (ET) “CF”

**G7 Special Taxes Matters – Credits, Cancellations, and Refunds.....Mr. King**

- Credits and Cancellations
  1. Shell Oil Company, 416756 (MT)
- Refunds
  2. Shell Oil Company, 344643 (MT)

There are no items for the following matters:

- G8 Property Tax Matters
- G9 Cigarette License Fee Matters
- G10 Legal Appeals Property Tax Matters

**H. Tax Program Nonappearance Matters – Adjudicatory**  
(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

**H1 Legal Appeals Matters .....Mr. Levine**

- Petitions for Rehearing
  1. Orna Amzaleg, Asher Fadlon, and Isack Fadlon, 171769 (AS)
- Hearing Request Withdrawn
  - 2a. Kevin Moller, 286866 (AS)
  - 2b. Martin Askgaard, 286870 (AS)
- Cases Heard But Not Decided
  - 3a. Jalal Odish Zora, 203825 (FH)
  - 3b. Jalal Odish Zora, 203824 (FHB)
  4. Robert Ingram, 260330 (EHC)
  5. Thomas Vu, 309419 (AS)
  6. Codemagic, 309839 (AC)

**H2 Franchise and Income Tax Matters.....Ms. Kelly**

- Formal Opinion
  1. Taiheiyo Cement USA Inc., 332855

**H3 Homeowner and Renter Property Tax Assistance Matters**

There are no items for this matter:

**H4 Sales and Use Taxes Matters .....Ms. Henry**

- Redeterminations
  1. Mentor Corporation, 334785 (GH)

**H5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds**

There are no items for this matter.

**H6 Special Taxes Matters .....Mr. King**

- Redeterminations
  1. Desert Grocers, Inc., 168288 (ET)
- Relief of Penalty
  2. Financial Indemnity Company, 238365 (ET) “CF”

- Denials of Claim for Refund
  - 3. Paramount Petroleum Corporation, 169046 (MT)
  - 4. Paramount Petroleum Corporation, 216272 (MT)
  - 5. Paramount Petroleum Corporation, 303346 (MT)
  - 6. Paramount Petroleum Corporation, 307629 (MT)
  - 7. Paramount Petroleum Corporation, 349783 (MT)

There are no items for the following matters:

- H7 Special Taxes Matters – Credits, Cancellations, and Refunds
- H8 Property Tax Matters
- H9 Cigarette License Fee Matters
- H10 Legal Appeals Property Tax Matters

## **I. Tax Program Nonappearance Matters**

(Contribution Disclosure forms are not required pursuant to Gov. Code § 15626.)

### **I1 Property Tax Matters**

There are no items for this matter.

### **I2 Offers-in-Compromise Recommendations .....Ms. Ograd**

- 1. Amirali Rajabali
- 2. John W. Strobel
- 3. Kenneth Man Kim

**Adjourn** - The meeting will reconvene on Wednesday, October 24, 2007, at 9:30 a.m.

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Gary Evans, Acting Chief  
Board Proceedings Division

- \* Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
- \*\* Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.
- + Material is available for this Item.
- ++ Material will be available at a later date.
- "CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.



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**Board Meeting\***

**Oral Hearings**

**A. Homeowner and Renter Property Tax Assistance Hearings**

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**B. Corporate Franchise and Personal Income Tax Hearings**

These matters are scheduled on Tuesday, October 23, 2007.

**C. Sales and Use Tax Appeals Hearings**

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

**C4. The Auto Store of Merced, Inc., 168200 (KH)**

For Petitioner:	Jakrun S. Sodhi, Attorney
	Dan Davis, Accountant
	Abdul Jawad, Taxpayer
	Fred Jawad, Taxpayer
For Department:	Robert Tucker, Tax Counsel

**C5. ~~ABC NACO, Inc., 167411 (OH)~~**

<del>For Petitioner:</del>	<del>Brian Greenburg, Accountant</del>
<del>For Department:</del>	<del>Randy Ferris, Tax Counsel</del>



- C6a. Stephen Charles Borkenhagen, 302079 (GH)  
 C6b. Eulipia, Inc., 300130 (GH)  
 C6c. Los Gatos Restaurants, Inc., 299490 (GH)  
     For Petitioner: Kathleen Borkenhagen, Taxpayer  
     For Department: Kevin Hanks, Hearing Representative
- C7. J & H Jewelry Mart, Inc., 304042 (GH)  
     For Petitioner: Herminio Bustos, Taxpayer  
     For Department: Kevin Hanks, Hearing Representative

There are no items for these matters:

- D. Special Taxes Appeals Hearing
- E. Property Tax Appeals Hearings
- F. Public Hearings

These matters are scheduled for Tuesday, October 23, 2007:

- G. Tax Program Nonappearance Matters – Consent
- H. Tax Program Nonappearance Matters – Adjudicatory
- I. Tax Program Nonappearance Matters

## Chief Counsel Matters

### J. Rulemaking

- J1 Proposed Amendments to Sales and Use Tax Regulation 1521,  
 Construction Contractors+.....Mr. Tucker

Regulation 1521, *Construction Contractors*, is proposed to be amended to provide that photovoltaic cells, solar panels, and solar modules should be considered materials when they function in the same manner as other materials such as roofing shingles, skylights, wall panels or windows, but that other photovoltaic cells, solar panels, and solar modules are accessory to a building and should be considered fixtures.

- J2 Proposed Amendments to Sales and Use Tax Regulation 1802,  
 Place of Sale and Use for Purposes of Bradley-Burns  
 Uniform Local Sales and Use Taxes+.....Ms. Ruwart

Regulation 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, is proposed to be amended to provide that all sellers who are required to collect local use tax on transactions of \$500,000 or more shall report the local use tax revenues derived there from directly to the jurisdiction where the property is first functionally used.

- J3 Regulation 5000 et seq, *Board of Equalization Rules for Tax Appeals*+ .....Mr. Lambert

Board approval of staff changes subsequent to Board adoption of the *Board of Equalization Rules for Tax Appeals* (Cal. Code of Regs., tit. 18, § 5000 et seq.) on September 11, 2007.

There are no items for these matters:

- K. Business Taxes  
L. Property Taxes

**M. Other Chief Counsel Matters**

- M1 Request for Filing an Amicus Curiae Brief, *Wunderlich v. County of Santa Cruz*, Santa Cruz County Superior Court, Case No. CV154719+ ..... Ms. Cazadd
- M2 Status Report on Multistate Tax Commission Amicus Brief, *CSX Transportation, Inc. v. State Board of Equalization of the State of Georgia*, et al., Docket No. 06-1287, U.S. Supreme Court+ ..... Ms. Cazadd
- M3 Request for Filing an Amicus Curiae Brief, *Steinhart v. County of Los Angeles*, Court of Appeal, Second Appellate District, Case No. B190957+ ..... Ms. Cazadd

**Administrative Session**

**N. Consent Agenda ..... Mr. Evans**

**N1 Retirement Resolutions**

- Louie Chapman
- Haven M. Kimura
- Shirley C. Konya
- Valerie Smith
- Irene P. Tse
- David B. Weld, Jr.

**N2 Approval of Board Meeting Minutes+**

- August 14, 2007
- September 11-12, 2007

**N3 Approval of 2008 Hazardous Substances Program Fees and Occupational Lead Poisoning Prevention Fee+**

**N4 Approval of 2008 Board Workload Plan+**

**N5 Sales Tax Prepayment Rate on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel+**

**O. Adoption of Board Committee Reports and Approval of Committee Actions**

**O1 Legislative Committee**

**P. Other Administrative Matters****P1 Executive Director's Report.....Mr. Hirsig**

- a. Introduction of Anna Brannen, Chief Information Officer of the Technology Services Division
- b. Board of Equalization – Building Update

**P2 Chief Counsel Report**

There are no items for this matter.

**P3 Deputy Director's Report**

There are no items for these matters.

- a. Sales and Use Tax
- b. Property and Special Taxes

**c. Administration .....Mr. Gau**

- 1. Department of Finance Response to BOE Unallocated Reduction Exemption Request
- 2. CEA Salary Compaction Issues

**Announcement of Closed Session ..... Mr. Evans****Q. Closed Session**

- Q1. Pending Litigation: *Quality Stores, Inc., et al; Quality Stores, Inc., v. California State Board of Equalization*, United States Bankruptcy Court for the Western District of Michigan Southern Division, Case No. GG-01-10662 (Gov. Code § 11126(e))
- Q2. Pending Litigation: *Calpine Corporation, Los Esteros Critical Energy Facility, LLC, Delta Energy Center, LLC, and Calpine Construction Finance Company, LP v. California State Board of Equalization, Santa Clara County, Contra Costa County, and Sutter County*, Los Angeles County Superior Court Case No. C359455 (Gov. Code § 11126(e))
- Q3. Pending Litigation: *Schroeder, et al. v. Board of Equalization, et al.* (Gov. Code § 11126(e)(2)(B)(i))
- Q4. Discussion and action on personnel matters (Gov. Code § 11126(a))

**Announcement of Open Session ..... Mr. Evans****Adjourn**

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